

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON,
AT SEATTLE

PHILADELPHIA INDEMNITY
INSURANCE COMPANY,

Cause No. 2:18-cv 00664 MJP

Plaintiff,

JOINT STATUS REPORT AND DISCOVERY PLAN

VS.

SEATTLE DRUG AND NARCOTIC
CENTER, INC.; ASPEN INSURANCE U.K.
LIMITED; and M.H., as guardian for her
minor daughter, J.M.A.

Defendants.

In accordance with Federal Rule of Civil Procedure 26(f), Local Civil Rule 16, and the Court's November 20, 2018 order re-setting deadlines (ECF 51), the parties, by and through their counsel of record, submit the following Joint Status Report and Discovery Plan.

1. Nature and complexity of the case.

This is an insurance coverage dispute arising out of underlying claims against Seattle Drug and Narcotic Center, Inc. (“SeaDruNar”) brought against by M.H., as guardian for her minor daughter, J.M.A. (“J.M.A.”) in King County Superior Court (“Underlying Suit”) related

**JOINT STATUS REPORT AND DISCOVERY PLAN – 1
USDC WD WA/SEA CAUSE NO. 2:18-cv-00664 MJP**

SOHA & LANG, P.S.
ATTORNEYS AT LAW
1325 FOURTH AVENUE, STE 2000
SEATTLE, WASHINGTON 98101
(206) 624-1800/FAX (206) 624-3585

1 to sex abuse. SeaDruNar is the insured under policies of insurance issued by Philadelphia
2 Indemnity Insurance Company and by Aspen Insurance U.K. Limited. Philadelphia asserts that
3 it had no duty to defend or indemnify SeaDruNar with respect to the Underlying Suit.
4 Philadelphia also asserts that any coverage available to SeaDruNar for the Underlying Suit falls
5 exclusively under policies issued by Aspen. SeaDruNar and Aspen disagree with
6 Philadelphia's coverage position and assert that the Philadelphia policies were triggered and
7 that Philadelphia owes coverage. The Underlying Suit has been settled and dismissed.
8 Philadelphia has obtained an Order of Default against J.M.A. (ECF 24), however, Philadelphia
9 and J.M.A. have filed a Stipulated Motion for Dismissal of J.M.A (ECF 68).

10 **2. Proposed deadline for joining additional parties.**

11 The parties propose a deadline of January 31, 2019.

12 **3. Consent to assignment of case to full time United States Magistrate Judge.**

13 No.

14 **4. Proposed discovery plan.**

15 **(A) Initial Disclosures.**

16 The parties agree to exchange Initial Disclosures by December 28, 2018.

17 **(B) Subjects, timing, and potential phasing of discovery.**

18 The parties anticipate that written discovery will be exchanged and that depositions will
19 be conducted. The parties believe that the subjects on which discovery may be had include, but
20 are not limited to, facts related to the allegations in the Underlying Suit, the terms of the
21 Philadelphia Policies and the Aspen Policies, the files and records of SeaDruNar, and coverage
22 under the Philadelphia Policies and Aspen Policies for the claim at issue. The parties do not
23 believe that any discovery phasing is necessary for this case.

(C) Electronically stored information.

The parties do not anticipate the need for significant ESI discovery in this case, but to the extent necessary the parties agree to be guided generally by the Model Protocol for production of electronically stored information.

(D) Privilege issues.

The parties agree that claims of privilege or of protection will be made at or within a reasonable period after the time of production, and be accompanied by a privilege log stating the privilege asserted, as well as the date and description of the document, and the name and title of author(s) and recipient(s). The parties agree to comply with Fed. R. Evid. 502 regarding the inadvertent disclosure of privileged information.

(E) Proposed limitations on discovery.

None at this time. The parties reserve the right to seek modifications to the limitations imposed by the rules regarding discovery as appropriate.

(F) The need for discovery related orders.

The parties request that an order be entered setting deadlines for expert disclosures and reports, as well as rebuttals. Expert disclosures should be set 12 weeks before discovery cut-off. Rebuttal expert disclosures should be set 5 weeks before discovery cut-off. The parties may present a proposed Protective Order to protect confidential or sensitive information as discovery proceeds.

5. Items set forth in Local Civil Rule 26(f)(1).

(A) Prompt case resolution.

The parties anticipate that some of the issues in the case may be resolved through dispositive motions already filed with the Court.

(B) Alternative dispute resolution.

The parties agree that ADR may be appropriate, and will consider mediation.

(C) Related cases.

The only related case is the Underlying Case in King County Superior Court under cause number 17-2-25848-2SEA, which is now fully resolved.

(D) Discovery management.

The parties anticipate that discovery will be professionally and cordially undertaken, with due consideration of counsel, parties and witness schedules to minimize disruption. The parties accept the service of discovery and the production of documents via electronic email attachment or electronic file transfer.

(E) Anticipated discovery sought.

The targeted discovery each party anticipates is described in Section 4(B), above.

(F) Phasing motions.

The parties do not request phasing at this time.

(G) Preservation of discoverable information.

The parties agree to preserve all discoverable information in their possession, custody or control.

(H) Privilege issues.

See Section 4(D), above.

(I) Model Protocol for Discovery of ESI.

See Section 4(C), above.

(J) Alternatives to Model Protocol.

Not at this time.

1 **6. Date by which discovery can be completed.**

2 The parties agree that discovery can be completed the later of 120 days before trial, or
3 30 days prior to whatever date this court sets for the filing of dispositive motions. If the Court
4 adopts a December 1, 2019 trial date, the parties propose a discovery deadline of August 2,
5 2019.

6 **7. Whether the case should be bifurcated.**

7 At this time, bifurcation is not an issue.

8 **8. Should the pretrial statements and pretrial order called for by Local Rule
9 16(e), (h), (i), and (k), and 16.1 be dispensed with in whole or in part for the sake of
10 economy.**

11 Not at this time. The parties will reconsider whether to dispense with pretrial
12 statements for the sake of economy if this case approaches trial.

13 **9. Any other suggestions for shortening or simplifying the case.**

14 None at this time.

15 **10. Date the case will be ready for trial.**

16 The parties anticipate that this case will be ready for trial on December 1, 2019.

17 **11. Jury or non-jury.**

18 Based on the claims at issue thus far, the trial will be a non-jury trial.

19 **12. Number of trial days required.**

20 The parties anticipate that approximately 3-5 trial days will be needed.

21 **13. Names, addresses, and telephone numbers of all trial counsel.**

22 **Plaintiff's Counsel:**

23 Paul M. Rosner, WSBA 37146

1 Jennifer P. Dinning, WSBA #38236
2 Sarah E. Davenport, WSBA #45269
3 1325 Fourth Avenue, Suite 2000
4 Seattle, WA 98101
5 Telephone: (206) 624-1800
6 Fax (206) 624-3585

7 **Defendants' Counsel:**

8 David M. Schoeggl, WSBA #13638
9 David W. Howenstine, WSBA #41216
10 Lane Powell, PC
11 PO Box 91302
12 1420 5th Avenue #4200
13 Seattle, WA 98111
14 Telephone: (206) 223-7000
15 Facsimile: (206) 223-7107
16 Email: schoeggld@lanepowell.com
17 Email: howenstined@lanepowell.com
18 Attorneys for Defendants Seattle Drug
19 and Narcotic Center, Inc. and Aspen
20 Insurance U.K. Limited

21 **14. Dates on which trial counsel may have complications to be considered in
22 setting a trial date.**

23 None at this time.

24 **15. Service on all Defendants.**

25 All Defendants have been served.

26 **16. Scheduling conference.**

27 Not at this time.

28 **17. Dates of filing corporate disclosures.**

29 Philadelphia's Corporate Disclosure Statement was filed on May 14, 2018. (ECF 7).

30 Aspen's Corporate Disclosure Statement was filed on June 29, 2018. (ECF 21).

1 Seattle Drug and Narcotic Center, Inc.'s Corporate Disclosure Statement was filed on
2 July 5, 2018 (ECF 25).

3 DATED this 2nd day of January, 2019.

4 SOHA & LANG, P.S.

LANE POWELL, PC

5 By: /s/Paul Rosner
6 Paul M. Rosner, WSBA # 37146
7 Jennifer P. Dinning, WSBA # 38236
Sarah E. Davenport, WSBA # 45269
Soha & Lang, P.S.
1325 Fourth Avenue, Suite 2000
Seattle, WA 98101-2570
**Attorneys for Plaintiff Philadelphia
Indemnity Insurance Company**

By: /s/David Howenstine (Per
Authorization)
David M. Schoeggl, WSBA # 13638
David W. Howenstine, WSBA # 41216
Lane Powell, PC
PO Box 91302
1420 5th Avenue #4200
Seattle, WA 98111
**Attorneys for Defendants Seattle Drug and
Narcotic Center, Inc. and Aspen Insurance
U.K. Limited**

CERTIFICATE OF SERVICE

I hereby declare that on January 2, 2019, I electronically filed the foregoing **JOINT STATUS REPORT AND DISCOVERY PLAN** with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

David Schoeggl
David Howenstine
Lane Powell, PC
1420 Fifth Avenue, Suite 4200
Seattle, WA 98111
Email: howenstined@lanepowell.com
Email: schoeggl@lanepowell.com
***Attorney for Defendants Seattle Drug and
Narcotic Center and Aspen Insurance U.K.
Limited***

Dated this 2nd day of January, 2019.

/s/Angela Murray

Angela Murray
Legal Assistant to Paul Rosner